

# Notice of Allowability

Application No.

10/600,272

Examiner

Sumesh Kaushal Ph.D.

Applicant(s)

KORNELUK ET AL.

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1633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/27/05.
2. ☒ The allowed claim(s) is/are 1-3, 8-10 and 15-17.
3. ☒ The drawings filed on 20 June 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 6/16/05.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### EXAMINER'S AMENDMENT

An extension of time under 37 CFR 1.136(a) is required to place this application in condition for allowance. During a telephone conversation conducted on 08/12/05, Michael Belliveau requested an extension of time for 1 MONTH(S) and authorized the Director to charge Deposit Account No. 03-2095 the required fee of \$120 for this extension.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kristina Bieker-Brady and Michael Belliveau on 06/16/05.

The application has been amended as follows:

#### IN THE CLAIMS

Claims 4-7, 11-14 and 18-21 are canceled.

Claims 1-3, 8-10 and 15-17 are allowed.

1. (Currently amended) A substantially pure polypeptide consisting of a BIR-3 domain sequence having at least 95% sequence identity to SEQ ID NO:24 or SEQ ID NO:25 ~~a sequence selected from the group consisting of SEQ ID NOs: 24, 25, 26, and 27, amino acids 255-322 of SEQ ID NO: 40, and amino acids 241-308 of SEQ ID NO: 42~~, wherein said polypeptide is capable of inhibiting apoptosis of a mammalian cell when said polypeptide is expressed in said cell.

2. (Original) The polypeptide of claim 1, wherein said polypeptide has at least 95% sequence identity to SEQ ID NO: 24.

3. (Original) The polypeptide of claim 1, wherein said polypeptide has at least 95% sequence identity to SEQ ID NO: 25.

4. (Canceled)

5. (Canceled)

6. (Canceled)

7. (Canceled)

8. (Currently amended) A substantially pure polypeptide consisting of SEQ ID NO:24 or SEQ ID NO:25 ~~a sequence selected from the group consisting of SEQ ID NOs: 24, 25, 26, and 27, amino acids 255-322 of SEQ ID NO: 40, and amino acids 241-308 of SEQ ID NO: 42~~, wherein said polypeptide is capable of inhibiting apoptosis of a mammalian cell when said polypeptide is expressed in said cell.

9. (Original) The polypeptide of claim 8, wherein said polypeptide has the sequence of SEQ ID NO: 24.

10. (Original) The polypeptide of claim 8, wherein said polypeptide has the sequence of SEQ ID NO: 25.

11. (Canceled)

12. (Canceled)

13. (Canceled)

14. (Canceled)

15. (Currently amended) A substantially pure polypeptide comprising SEQ ID NO:24 or SEQ ID NO:25 ~~a sequence selected from the group consisting of SEQ ID NOs: 24, 25, 26, and 27, amino acids 255-322 of SEQ ID NO: 40, and amino acids 241-~~

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~~308 of SEQ ID NO: 42~~, wherein said polypeptide is capable of inhibiting apoptosis of a mammalian cell when said polypeptide is expressed in said cell.

16. (Original) The polypeptide of claim 15, wherein said polypeptide comprises the sequence of SEQ ID NO: 24.

17. (Original) The polypeptide of claim 15, wherein said polypeptide comprises the sequence of SEQ ID NO: 25.

18. (Canceled)

19. (Canceled)

20. (Canceled)

21. (Canceled)

#### **IN THE SPECIFICATION**

##### **On page 20**

line 2, "Fig. 1" is replaced with Figs. 1A-1G

line 4, "Fig. 2" is replaced with Figs. 2A-2H

line 6, "Fig. 3" is replaced with Figs. 3A-3G

line 9, "Fig. 4" is replaced with Figs. 4A-4F

line 11, "Fig. 5" is replaced with Figs. 5A-5F

line 13, "Fig. 6" is replaced with Figs. 6A-6F

line 17, "Fig. 8" is replaced with Figs. 8A-8E

line 22, "Fig. 10" is replaced with Figs. 10A-10C

line 24, "Fig. 11" is replaced with Figs. 11A-11C

##### **On page 21**

line 1, "Fig. 12" is replaced with Figs. 12A-12C

### **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance: Claim 1 has been amending to recite "BIR-3 domain" in order to meet written description guidelines. Claims 1-3, 8-10 and 15-17 are free of prior art of record. The prior art does not teach or suggest a polypeptide consisting of a BIR-3 domain having at least 95% sequence identity to SEQ ID NO:24 or SEQ ID NO:25, wherein the polypeptide is capable of inhibiting apoptosis of a mammalian cell when said polypeptide is expressed in said cell.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Terminal Disclaimer***

The terminal disclaimer filed on 07/27/05 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of US 6,656,704 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sumesh Kaushal Ph.D. whose telephone number is 571-272-0769. The examiner can normally be reached on Mon-Fri. from 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Nguyen can be reached on 571-272-0731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**SUMESH KAUSHAL**  
**PATENT EXAMINER**

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